

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|--|---|--------------------|
| ----- | | X |
| AMERICAN BROADCASTING COMPANIES, INC., | : | |
| DISNEY ENTERPRISES, INC., CBS BROADCASTING INC., | : | |
| CBS STUDIOS INC., NBCUNIVERSAL MEDIA, LLC, | : | |
| NBC STUDIOS, LLC, UNIVERSAL NETWORK | : | |
| TELEVISION, LLC, TELEMUNDO NETWORK | : | |
| GROUP LLC, WNJU-TV BROADCASTING LLC, | : | |
| | : | |
| Plaintiffs, | : | |
| | : | |
| v. | : | 12 Civ. 1540 (AJN) |
| | : | |
| AEREO, INC., | : | |
| | : | |
| Defendant. | : | |
| ----- | | X |
| WNED, THIRTEEN, FOX TELEVISION STATIONS, INC., | : | |
| TWENTIETH CENTURY FOX FILM CORPORATION, | : | |
| WPIX, INC., UNIVISION TELEVISION GROUP, INC., | : | |
| THE UNIVISION NETWORK LIMITED PARTNERSHIP | : | |
| and PUBLIC BROADCASTING SERVICE, | : | |
| | : | |
| Plaintiffs, | : | |
| | : | |
| v. | : | 12 Civ. 1543 (AJN) |
| | : | |
| AEREO, INC. f/k/a BAMBOOM LABS, INC., | : | |
| | : | |
| Defendant. | : | |
| ----- | | X |

DECLARATION OF MICHAEL R. POTENZA

I, Michael R. Potenza, hereby declare under penalty of perjury, that the following statement is true and correct, to my personal knowledge.

1. I am a member of the bar of this Court and counsel at Debevoise & Plimpton LLP, counsel for American Broadcasting Companies, Inc., Disney Enterprises, Inc., CBS Broadcasting, Inc., CBS Studios, Inc., NBCUniversal Media, LLC, NBC Studios, LLC, Universal Network Television, LLC, Telemundo Network Group LLC, and WNJU-TV Broadcasting, LLC in the above-captioned action. I respectfully submit this declaration in support of Plaintiffs' Pre-Hearing Memorandum.

REDACTED

4. Attached hereto as **Exhibit 3** is a true and correct copy of an excerpt from the Transcript of a Hearing held in the above-captioned action on March 13, 2012.

5. Attached hereto as **Exhibit 4** is a true and correct copy of a screenshot of <https://aereo.com/home>, taken on May 1, 2012.

6. Attached hereto as **Exhibit 5** is a true and correct copy of a screenshot of <https://aereo.com/features>, taken on May 1, 2012.

7. Attached hereto as **Exhibit 6** is a true and correct copy of Aereo FAQ: Support Center: How many programs can I record... (<http://support.aereo.com/customer/portal/articles/382740-how-many-programs-can-i-record->) (last visited May 1, 2012).

REDACTED

REDACTED

10. Attached hereto as **Exhibit 9** is a true and correct copy of Aereo's Terms of Use and list of "Allowed Zip Codes," *available at* <https://aereo.com/terms> and <https://aereo.com/zips> (last visited May 1, 2012).

11. Attached hereto as **Exhibit 10** is a true and correct copy of Todd Spangler, *'Aereo' To Test Copyright Law With Internet-Streaming TV Service*, MULTICHANNEL NEWS, dated Feb. 14, 2012, *available at* http://www.multichannel.com/article/480553-_Aereo_To_Test_Copyright_Law_With_Internet_Streaming_TV_Service.php.

REDACTED

REDACTED

REDACTED

31. Attached hereto as **Exhibit 30** is a true and correct copy of *Moody's Said That the New Television Streaming Service, Aereo, Faces Long-Shot Odds Against Broadcast Station Lawsuit*, MOODY'S INVESTOR SERVICE, GLOBAL CREDIT RESEARCH, March 16, 2012.

REDACTED

33. Attached hereto as **Exhibit 32** is a true and correct copy of excerpts from the Transcript of the Deposition of Madison Bond, dated April 19, 2012.

REDACTED

36. Attached hereto as **Exhibit 35** is a true and correct copy of excerpts from the Transcript of the Deposition of Salil Dalvi, dated April 25, 2012.

37. Attached hereto as **Exhibit 36** is a true and correct copy of excerpts from the Transcript of the Deposition of Stephen Segaller, dated April 19, 2012.

REDACTED

39. Attached hereto as **Exhibit 38** is a true and correct copy of Stacey Higginbotham, *Call the Lawyers: Bamboom Wants to be Netflix for Broadcasters*, GIGAOM, April 14, 2011, *available at* <http://gigaom.com/video/bamboom/> (last visited Apr. 29, 2012).

40. Attached hereto as **Exhibit 39** is a true and correct copy of excerpts from the Transcript of the Deposition of Sherry Brennan, dated April 16, 2012.

REDACTED

47. Attached hereto as **Exhibit 46** is a true and correct copy of a screenshot of <http://www.hulu.com/network/univison>, taken on April 30, 2012.

48. Attached hereto as **Exhibit 47** is a true and correct copy of a screenshot of <http://www.hulu.com/network/fox>, taken on April 30, 2012.

49. Attached hereto as **Exhibit 48** is a true and correct copy of dyle FAQs, *available at* <http://www.dyle.tv/faqs> (last visited April 30, 2012).

50. Attached hereto as **Exhibit 49** is a true and correct copy of “17 More Stations to Participate in Upcoming Dyle Mobile TV Launch,” *available at* <http://www.dyle.tv/mcv/news/17-more-stations-to-participate-in-upcoming-dyle-mobile-tv-launch> (last visited April 30, 2012).

I declare under penalty of perjury that the foregoing is true and correct

/s/ Michael R. Potenza

Executed on May 1, 2012.